

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

AMERICAN AIRLINES, INC.,

§

Plaintiff,

§

v.

§

Civil Action No. 4:23-cv-00860-P

SKIPLAGGED, INC.,

§

Defendant.

§

DEFENDANT SKIPLAGGED, INC.’S DEPOSITION DESIGNATIONS

Pursuant to the Court’s September 9, 2024 *Order* [Dkt. 269], Skiplagged, Inc. (“Skiplagged”) hereby submits its deposition designations and objections to Plaintiff American Airlines, Inc.’s (“AA”) counter-designations, which is attached hereto and marked as Exhibit “A.” Skiplagged’s deposition testimony designations are submitted without prejudice to Skiplagged’s right to amend such, to the extent allowed by this Court and the law, and based on the progress of the case at trial. Skiplagged further reserves the right to use any deposition designation that AA designates.

On September 4, 2024, Skiplagged filed its *Objections and Responsive Designations to Plaintiff’s Pretrial Disclosures*, which set forth its counter-designations to AA’s deposition designations and Skiplagged’s objections to AA’s deposition designations. A copy is attached as Exhibit “B.”

Dated: September 27, 2024

/s/ William L. Kirkman

William L. Kirkman
Texas Bar No. 11518700
Preston B. Sawyer
Texas Bar No. 24102456
KIRKMAN LAW FIRM, PLLC
201 Main Street, Suite 1160
Fort Worth, Texas 76102
Telephone: (817) 336-2800
Facsimile: (817) 887-1863
billk@kirkmanlawfirm.com
prestons@kirkmanlawfirm.com

/s/ Aaron Z. Tobin

Aaron Z. Tobin
Texas Bar No. 24028045
Kendal B. Reed
Texas Bar No. 24048755
Abigail R.S. Campbell
Texas Bar No. 24098759
Nick H. Burns
Texas Bar No. 24128189
A. Gage Taylor
Texas Bar No. 24123906
**CONDON TOBIN SLADEK THORNTON
NERENBERG, PLLC**
8080 Park Lane, Suite 700
Dallas, Texas 75231
Telephone: (214) 265-3800
Facsimile: (214) 691-6311
atobin@condontobin.com
kreed@condontobin.com
acampbell@condontobin.com
nburns@condontobin.com
gtaylor@condontobin.com

/s/ Darin M. Klemchuk

Darin M. Klemchuk
Texas Bar No. 24002418

KLEMCHUK PLLC
8150 North Central Expressway, 10th Floor
Dallas, Texas 75206
Telephone: (214) 367-6000
Facsimile: (214) 367-6001
Darin.klemchuk@klemchuk.com

Attorneys for Defendant, Skiplagged, Inc.

CERTIFICATE OF SERVICE

On September 27, 2024, I electronically submitted the foregoing document with the clerk of the court of the U.S. District Court, Northern District of Texas, using the CM/ECF system which will send a notice of electronic filing to all counsel of record. I hereby certify that I have served all counsel of record electronically or by another manner authorized by FEDERAL RULE OF CIVIL PROCEDURE 5(b)(2).

/s/ William L. Kirkman

William L. Kirkman

EXHIBIT "A"

SKIPLAGGED'S DEPOSITION DESIGNATIONS**1. Varvara Reva – March 26, 2024**

Skiplagged's Deposition Designation	AA's Objection(s)	AA's Counter-Designation	Skiplagged Objections to AA's Counter Designations
7:24-8:7	None	None	None
25:8-10	None	None	None
33:22-34:4	None	None	None
34:8-16	None	None	None
35:2-8	None	None	None
35:19-22	None	None	None
36:23-37:17	None	None	None
51:2-9	FRE 401 (Relevance)	None	None
51:13-52:11	FRE 401 (Relevance)	None	None
55:2-24	FRE 401 (Relevance)	55:25–56:6	None
57:17-22	None	None	None
59:15-24	None	None	None
61:18-22	None	None	None
63:20-64:18	FRE 401 (Relevance)	None	None
67:3-16	FRE 401 (Relevance)	66:5–66:11; 66:16–67:2	None
67:22-68:6	None	72:9–16; 73:9–74:3; 75:20–76:7	Skiplagged objects to these rebuttal deposition designations because they are irrelevant and outside the scope of the deposition designation AA claims they are to rebut. FRE 401, 403, 611.
81:16-17	None	None	None
82:2-5	FRE 401 (Relevance)	83:11–84:17	Skiplagged objects to these rebuttal deposition designations because they

			are irrelevant and outside the scope of the deposition designation AA claims they are to rebut. FRE 401, 403, 611.
88:4-18	FRE 401 (Relevance)	None	None
88:24-89:12	FRE 401 (Relevance)	88:19-88:23	None
131:16-132:4	None	None	None
138:15-140:7	FRE 801/802 (Hearsay)	141:13-142:3	
169:2-170:9	None	None	None
170:16-171:18	None	171:24-172:11; 172:25- 173:7; 176:17-176:19	176:17-176:19 – Skiplagged objects to this rebuttal deposition designation as irrelevant and outside the scope of the deposition designation AA claims it is to rebut. FRE 401, 403, 611.
178:5-179:15	FRE 401 (Relevance)	118:19-119:8; 179:16-180:2	None
205:24-206:17	None	206:18 – 207:6; 218:3 – 218:12	Skiplagged objects to these rebuttal deposition designations because they are irrelevant and outside the scope of the deposition designation AA claims they are to rebut. FRE 401, 403, 611.

2. Marcial Lapp – May 30, 2024

Pursuant to the Parties' agreement, if Mr. Lapp testifies at trial, his deposition testimony will not be presented. Thus, the below designations and objections are subject to Mr. Lapp appearing at trial.

Skiplagged's Deposition Designation	AA's Objection(s)	AA's Counter-Designation	Skiplagged Objections to AA's Counter Designations
8:21-24	None	None	None
9:9-13	None	None	None
9:22-13:7	None	None	None

25:8-15	None	None	None
26:2-4	None	None	None
26:13-17	None	26:18-26:22	None
26:23-27:15	None	30:15-31:21	Skiplagged objects to this rebuttal deposition designation as irrelevant and because it contains speculation regarding hearsay from a third party. FRE 401, 403, 602, 701.
32:12-23	None	32:24-33:5; 33:8-33:13; 37:20-37:24; 39:10-40:2	37:20-37:24, 39:10-40:2 – Skiplagged objects to these rebuttal deposition designations because they are not relevant to the Lanham Act claims or copyright claim and because they are outside the scope of the deposition designation AA claims they are to rebut. FRE 401, 403, 611.
40:10-41:8	None	41:9-41:17	Skiplagged objects to this rebuttal deposition designation as hearsay and speculation. FRE 802, 602, 701.
47:5-22	None	44:8; 45:21-46:13; 49:4-50:1; 50:2-50:3; 50:8-51:9; 51:21-52:11; 52:14-52:15	50:8-51:9, 51:21-52:11 - Skiplagged objects to these rebuttal deposition designations as irrelevant and outside the scope of the deposition designation AA claims they are to rebut. FRE 401, 403, 611.
59:9- 61:3	None	62:22-63:15; 85:15-85:21; 86:15-87:5; 89:24; 91:4-91:7; 91:15-94:14; 95:3-95:13	85:15-85:21, 86:15-87:5, 89:24, 91:4-91:7, 91:15-94:14, 95:3-95:13 - Skiplagged objects to these rebuttal deposition designations as irrelevant and outside the scope of the deposition designation AA claims they are to rebut. FRE 401, 403, 611. The rebuttal

			deposition designation 85:15-85:21 is also incomplete and does not contain the witness's response to the question.
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3. Marcial Lapp (AA Corporate Representative) – July 1, 2024

Pursuant to the Parties agreement, if Mr. Lapp testifies at trial, his deposition testimony will not be presented. Thus, the below designations and objections are subject to Mr. Lapp appearing at trial.

Skipplagged's Deposition Designation	AA's Objection(s)	AA's Counter-Designation	Skipplagged Objections to AA's Counter Designations
6:10-8:3	None	None	None
8:15-19	None	None	None
10:10-11:2	None	None	None
12:12-17	None	None	None
27:13-29:7	None	None	None
36:25-37:16	None	33:11–34:14; 34:23–36:4; 36:13–36:24; 37:17–40:10	33:11–34:14, 37:17-40:10 - Skipplagged objects to these rebuttal deposition designations because they are outside the scope of the deposition designation AA claims they are to rebut. FRE 611.
40:11-21	None	None	None
40:23-41:15	FRE 403 (Confusion—argumentative; calls for speculation)	None	None
42:6-43:8	None	43:9–45:19; 48:14–48:24; 49:11–51:8; 51:18–52:5	49:11-51:8, 51:18-52:5 - Skipplagged objects to these rebuttal deposition designations because they are outside

			the scope of the deposition designation AA claims they are to rebut. FRE 611. Further, 51:18-52:5 is incomplete and does not include the answer to the question.
52:7-18	None	None	None
54:4-23	None	54:24-55:10	None
56:2-4	None	None	None
56:12-15	FRE 403 (Cumulative)	None	None
57:6-22	None	57:23-58:5	Skipagged objects to this rebuttal deposition designation as incomplete as it does not include the answer to the question.
58:12-59:6	None	None	None
59:24-60:12	None	60:14-60:16	None
60:17-24	None	61:5-61:17; 61:23-62:5	None
62:17-20	None	None	None
63:22-64:16	None	64:17-65:18	None
65:19-21	FRE 403 (Confusion— assumes facts not in evidence)		None
65:23-66:10	FRE 403 (Confusion— assumes facts not in evidence)	66:11-67:3; 67:16-68:9	None
74:19-25	None	75:1-75:16	None
75:17-77:13	None	77:14-77:22	None
77:23-79:4	FRE 401 (Relevance) (as to Skyscanner)	None	None

82:19-84:4	FRE 401 (Relevance)	84:5–84:11; 84:22; 85:11; 86:22–87:16; 87:20–87:25; 88:4–89:24; 91:25–92:8; 94:12–94:22	84:22; 85:11, 86:22–87:16, 87:20–25; 88:4–89:24, 91:25–92:8; 94:12–22 – Skiplagged objects to these rebuttal deposition designations as irrelevant, only including part of the testimony, and outside the scope of the deposition designation AA claims they are to rebut. FRE 401, 403, 611.
105:2-5	FRE 401 (Relevance)	None	None
109:6-13	FRE 401 (Relevance)	109:14–110:3	None
111:4-11	FRE 401 (Relevance)	None	None
122:7-22	FRE 401 (Relevance)	123:24–124:19 (subject to relevance objection)	None
124:20-21	None	124:24-131:7	Skiplagged objects to these rebuttal deposition designations as irrelevant and outside the scope of the deposition designation AA claims they are to rebut. FRE 401, 403, 611.
134:17-135:15	FRE 401 (Relevance)	135:16–136:4 (subject to relevance objection); 138:14–139:20; 141:13–142:1	None
151:7-25	FRE 401 (Relevance)	152:1–152:10	None
152:11-18	FRE 401 (Relevance); FRE 403 (Confusion—question but not answer designated)	167:16–169:17	Skiplagged objects to these rebuttal deposition designations because they are outside the scope of the deposition designation AA claims they are to rebut. FRE 611.
169:18-171:4	None	171:5–171:16	None
171:21-172:1	None	172:2–172:21	Skiplagged objects to these rebuttal deposition designations because they are outside the scope of the deposition designation AA claims they are to rebut. FRE 611.

173:15-22	FRE 401 (Relevance)	174:1–174:6	None
174:7-10	None	174:11–174:13	Skiplagged objects to these rebuttal deposition designations because they are outside the scope of the deposition designation AA claims they are to rebut. FRE 611.
175:5-18	None	176:9–178:18; 179:13–181:21	Skiplagged objects to these rebuttal deposition designations because they are outside the scope of the deposition designation AA claims they are to rebut. FRE 611.
184:13-21	None	None	None
185:2-187:2	FRE 602 (No personal knowledge of email exhibit)		None
187:9-12	FRE 602 (No personal knowledge of email exhibit)	187:16–187:18	None
187:20-188:9	FRE 602 (No personal knowledge of email exhibit)	188:10–188:15	None
189:7-192:7	FRE 602 (No personal knowledge of email exhibit)	192:8–192:24	None
219:23-220:7	None	202:4–202:12; 203:10–203:13; 203:17–205:24; 206:11–206:18; 220:8–223:17; 224:10–224:24	Skiplagged objects to these rebuttal deposition designations because they are outside the scope of the deposition designation AA claims they are to rebut. FRE 611.

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EXHIBIT "B"

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

AMERICAN AIRLINES, INC.,

§

Plaintiff,

§

v.

§

Civil Action No. 4:23-cv-00860-P

§

SKIPLAGGED, INC.,

§

Defendant.

§

**DEFENDANT SKIPLAGGED, INC.'S OBJECTIONS AND RESPONSIVE
DESIGNATIONS TO PLAINTIFF'S PRETRIAL DISCLOSURES**

Defendant Skiplagged, Inc. ("Skiplagged") hereby submits its Objections and Responsive Designations to Plaintiff's Pretrial Disclosures in accordance with the Court's Scheduling Order [Dkt. 20].

Depositions and Designations

1. Aktarer Zaman (taken on May 29, 2024)

Counter Designations:

33:23	73:12-22	186:20
52:9	89:10	187:3
62:23	84:10-15	187:8
64:6	86:19-87:2	188:3
64:14	89:24	188:8
64:24	90:20	188:16
65:3	116:18	201:6
65:7	165:9	201:12
65:17	167:18	201:17
65:21-23	167:23	201:20
71:17	185:19	203:5
72:23-73:1		

Objections:

1. 33:20-22, 33:24-25 – Skiplagged objects to this deposition designation as irrelevant. FRE 401, 403. How, why, or if Skiplagged's user interface informs a consumer about pricing of a direct flight versus a hidden-city flight in no way relates to the Lanham Act claims or copyright damages in this litigation, would mislead the jury, and confuse the issues.
2. 51:5-52:11 – Skiplagged objects to this deposition designation as irrelevant. FRE 401, 403. How or if Skiplagged provides “live information” to customers in no way relates to the Lanham Act claims or copyright damages in this litigation, would mislead the jury, and confuse the issues.
3. 67:19-68:2, 68:8-13 – Skiplagged objects to this deposition designation as irrelevant. FRE 401, 403. Priceline providing information to Skiplagged and the related chargebacks from customers in no way relates to the Lanham Act claims or copyright damages in this litigation, would mislead the jury, and confuse the issues.
4. 71:12-16 – Skiplagged objects to this deposition designation because the questioning misstating Mr. Zaman's prior testimony. FRE 611.
5. 73:10-11, 73:23 – Skiplagged objects to this deposition designation and instructed Mr. Zaman not to answer the question during the deposition because it calls for information protected by the attorney-client privilege. FRE 502.
6. 89:22-23, 89:23, 90:6-19, 90:21-17 – Skiplagged objects to this deposition designation because it seeks an improper opinion from a lay witness regarding a legal conclusion and because Mr. Zaman lacks personal knowledge regarding Plaintiff's trademarks. FRE 602, 701.
7. 106:1-17 – Skiplagged objects to this deposition designation because the questioning misstates Mr. Zaman's prior testimony and is irrelevant. FRE 401, 611.
8. 164:3-13 – Skiplagged objects to this deposition designation because it seeks an improper opinion from a lay witness regarding a legal conclusion and because Mr. Zaman lacks personal knowledge regarding Plaintiff's trademarks. FRE 602, 701.
9. 165:5-166:2 - Skiplagged objects to this deposition designation because it seeks an improper opinion from a lay witness regarding a legal conclusion and because Mr. Zaman lacks personal knowledge regarding Plaintiff's trademarks. FRE 602, 701.
10. 167:14-25 – Skiplagged objects to this deposition designation because it calls for speculation outside the personal knowledge of Mr. Zaman. FRE 602, 701.
11. 185:6-10, 185:16-25, 186:13-187:14, 188:1-17 – Skiplagged objects to this deposition designation as irrelevant and improper settlement evidence. FRE 401, 403, 408.

Skiplagged's settlement agreement with Southwest and the terms thereof are not relevant to the Lanham Act and copyright damages sought by AA in this litigation and would only serve to mislead the jury and confuse the issues.

12. 194:2-18, 197:11-20 – Skiplagged objects to this deposition designation and the corresponding Exhibits 5 and 6 as irrelevant. FRE 401, 403. The relevant statutes of limitations in this case are 3 and 4 years. Thus, Skiplagged's financial information from 2018 is not relevant to the Lanham Act or copyright damages claims in this litigation.

13. 201:1-5, 201:7-10, 201:13-16, 201:18-19, 201:21-22 – Skiplagged objects to this deposition designation as irrelevant and prejudicial. FRE 401, 403. Skiplagged's assets are not relevant to this litigation and could only be used as prejudice against Skiplagged regarding its financial status.

14. 203:3-4, 203:6-13 – Skiplagged objects to this deposition designation as irrelevant and prejudicial. FRE 401, 403. Mr. Zaman's salary from Skiplagged is not relevant to the claims in this litigation and can only be used to prejudice the jury against Skiplagged and Mr. Zaman.

2. Aktarer Zaman, as Skiplagged Corporate Representative (taken on June 12, 2024)

Counter Designations:

21:18-21	211:13	281:2
27:13-18	211:24	281:12
28:24	212:11-14	293:21-294:3
33:24-34:4	218:17-18	305:7
34:20	219:3	305:22
177:8	219:7	306:7
178:7	220:4-7	309:19
180:2	237:10	309:25
180:18	239:18	315:22
198:22	247:6	317:11-12
201:6	247:20	320:15
208:20-21	248:8	321:4
209:10	249:17	321:23
209:19-20	279:15	328:17
209:24	280:20	329:11
211:3-7		

Objections:

1. 21:16-17, 27:10-12, 33:15-23 – Skiplagged objects to these deposition designations because AA does not include the answer to the designated question, thus making the testimony incomplete and misleading. FRE 106, 403.

2. 23:6-12, 27:20-28:7, 30:6-17, 58:21-25, 304:21-305:2, 305:4-6, 305:10-21, 305:23-306:6, 306:8-9, 317:5-10, 317:13-16, 328:3-16, 328:18-329:10, 329:12-330:14 – Skiplagged objects to these deposition designations as irrelevant and argumentative. FRE 401, 403. Whether or not Mr. Zaman retained records or notes on queries or answer to verified interrogatories or how production was obtained that were not asked to be produced in this litigation is not relevant to the claims in this litigation, misleads the jury, and is argumentative.

3. 34:18-19, 34:21-35:5 – Skiplagged objects to this deposition designation because it calls for speculation as to knowledge of third parties. FRE 701.

4. 47:6-10 – Skiplagged objects to this deposition designation as irrelevant. FRE 401. Whether Skiplagged has ever used conversion rate to justify a business decision in no way relates to the Lanham Act and copyright damages claims at issue in this litigation.

5. 176:20-177:7, 177:9-178:6, 178:8-178:11, 179:15-25, 180:3-17, 180:19-21 – Skiplagged objects to these deposition designations as irrelevant. FRE 401, 403. Skiplagged's IP address information is not relevant to the Lanham Act and copyright damages claims at issue in this litigation and would confuse the jury as to the relevant issues.

6. 198:19-21, 198:23-25, 199:7-201:5, 201:7-8 – Skiplagged objects to these deposition designations as irrelevant. FRE 401. Whether Skiplagged generates vague business reports from its database is not relevant to the Lanham Act and copyright damages claims at issue in this litigation.

7. 208:14-19, 208:22-9, 209:11-18, 209:22-23, 209:25-211:2, 211:8-12, 211:14-23, 211:25-212:10, 212:15-213:3, 213:23, 214:13-215:5, 216:18-217:4, 217:18-218:7, 218:13-16, 218:19-219:2, 219:5-6, 219:8-15, 219:22-3, 220:8-16 – Skiplagged objects to these deposition designations as irrelevant and calling for revealing attorney-client privileged conversations. FRE 401, 403, 502. The legality of hidden city ticketing or presenting information about hidden city ticketing and separate lawsuits or cease and desist letters are not relevant to the Lanham Act and copyright damages claims at issue in this litigation and would greatly confuse the jury as to the issues.

8. 237:6-9, 237:11-13, 238:10-14, 239:15-17, 239:19-20, 246:13-5, 247:7-19, 247:21-7, 248:9-12, 249:4-16, 249:18-19, 249:25-250:13, 320:5-14, 320:18-321:3, 321:5-22, 321:24-322:12, 324:3-12 – Skiplagged objects to these deposition designations as calling for legal conclusions from a lay witness that is not a lawyer. FRE 701.

3. Dan Gellert (taken on November 30, 2023)

Counter Designations:

11:5-18	
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Objections:

1. 24:12-16, 24:24-25:4 – Skiplagged objects to this deposition designation as irrelevant and asking for a legal conclusion from a lay witness who is not a lawyer. FRE 401, 403, 701. Whether or not a third-party company had authority to book AA tickets or how it functions in no way relates to the Lanham Act and copyright damages claims at issue in this litigation and would confuse the jury as to the issues.
2. 156:16-157:3 – Skiplagged objects to this deposition designation as irrelevant improper settlement evidence. FRE 401, 403, 408. Skiplagged's arrangements or settlement agreement with Southwest and the terms thereof are not relevant to the Lanham Act and copyright damages sought by AA in this litigation.
3. 196:14-199:17 – Skiplagged objects to this deposition designation as calling for a legal opinion from a lay witness that is not a lawyer. FRE 701.

Exhibits:

Skiplagged's objections to the proposed exhibits disclosed by AA are attached hereto as

Exhibit 1.

Dated: September 4, 2024.

Respectfully submitted,

/s/ William L. Kirkman

William L. Kirkman

Texas Bar No. 11518700

Preston B. Sawyer

Texas Bar No. 24102456

KIRKMAN LAW FIRM, PLLC

201 Main Street, Suite 1160

Fort Worth, Texas 76102

Telephone: (817) 336-2800

Facsimile: (817) 887-1863

billk@kirkmanlawfirm.com

prestons@kirkmanlawfirm.com

/s/ Abigail R.S. Campbell

Aaron Z. Tobin

Texas Bar No. 24028045

Kendal B. Reed

Texas Bar No. 24048755

Abigail R.S. Campbell

Texas Bar No. 24098759

Nick H. Burns

Texas Bar No. 24128189

A. Gage Taylor

Texas Bar No. 24123906

**CONDON TOBIN SLADEK THORNTON NERENBERG,
PLLC**

8080 Park Lane, Suite 700

Dallas, Texas 75231

Telephone: (214) 265-3800

Facsimile: (214) 691-6311

atobin@condontobin.com

kreed@condontobin.com

acampbell@condontobin.com

nburns@condontobin.com

gtaylor@condontobin.com

/s/ Darin M. Klemchuk

Darin M. Klemchuk

Texas Bar No. 24002418

KLEMCHUK PLLC

8150 North Central Expressway, 10th Floor

Dallas, Texas 75206

Telephone: (214) 367-6000

Facsimile: (214) 367-6001

Darin.klemchuk@klemchuk.com

Attorneys for Defendant, Skipplagged, Inc.

CERTIFICATE OF SERVICE

On September 4, 2024, I electronically submitted the foregoing document with the clerk of the court of the U.S. District Court, Northern District of Texas, using the CM/ECF system which will send a notice of electronic filing to all counsel of record. I hereby certify that I have served all counsel of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Abigail R.S. Campbell
Abigail R.S. Campbell